

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST VIRGINIA**

In re)	
)	Chapter 11
FREEDOM INDUSTRIES, INC.,)	
)	Case No. 2:14-bk-20017
Debtor.)	
)	Related to Docket No. 40

PRELIMINARY DRAFT – MARCH 25, 2014

**CONSENT ORDER IN FURTHERANCE OF ORDER REGARDING
SITE ACCESS AND EVIDENCE PRESERVATION
FOR DEMOLITION OF FIBERGLASS TANKS AND APPURTENANCES**

Whereas, on February 21, 2014, at Docket No. 149, this Court entered an Order Regarding Site Access And Evidence Preservation (the “Preservation Order”); and

Whereas, on January 24, 2014, the West Virginia Department of Environmental Protection (the “DEP”) and Freedom Industries, Inc. (“Freedom” or the “Debtor”) dually executed that certain Consent Order Number 8034 (the “DEP Consent Order”), which required, among other things, that Freedom dismantle and manage removal of all above ground storage tanks, associated piping, machinery and appurtenances associated with the bulk storage operations of Freedom’s facility situate in Charleston, WV (the “Etowah Facility”); and

WHEREAS, in compliance with the DEP Consent Order, Freedom submitted to DEP a Tank Decommissioning Plan dated March 7, 2014 (the “Decommissioning Plan”) on March 7, 2014, which DEP subsequently approved on March 11, 2014; and

WHEREAS, in compliance with Paragraph Nos. 3 and 9 of the Preservation Order, on February 11, 2014 Freedom provided a copy of the Decommissioning Plan and associated DEP approval email to the Litigation Parties and The Official Committee Of Unsecured Creditors of the Debtor (as those terms are defined in the Preservation Order); and

WHEREAS, the Decommissioning Plan contemplates that the Etowah Facility may be dismantled in stages; and

WHEREAS, Paragraph No. 8 of the Preservation Order provides that once a schedule for removal of Tanks (as the term is defined in the Preservation Order) has been developed, the Debtor and the parties are to meet and confer for purposes of presenting a further Order to this Court for purposes of outlining the protocols and procedures to be followed regarding removal of Tanks; and

WHEREAS, the Debtor, with its retained environmental engineering firm, CEC, in consultation with DEP, has determined that the first phase of the demolition of the Etowah Facility will involve Tanks 201, 202, 203, 204, 205, and 206 and appurtenances (the "Phase I Tanks"); and

WHEREAS, attached hereto and incorporated by reference as **Exhibit A** is a site map of the Etowah Facility that illustrates the location of the Phase I Tanks; and

WHEREAS, the Debtor has conferred with the Litigation Parties regarding the Debtor's plan to demolish the Phase I Tanks, and in accordance with the Preservation Order, the Debtor and the Litigation Parties have agreed that the Phase I Tanks shall be cut up by Diversified Services and disposed of as solid waste, in accordance with the Decommissioning Plan (except that competitive bids shall not be required) and all applicable laws and regulations, and that further such work shall proceed as expeditiously as reasonably possible after entry of this Order.

It is therefore ORDERED, ADJUDICATED AND DECREED that Freedom shall proceed with demolition of the Phase I Tanks as set forth above.

CONSENTED AND AGREED:

Debtor

Freedom Industries, Inc.

By: _____

Official Committee of Unsecured Creditors

By: _____

Litigation Parties

Roger Decanio

Anthony Majestro

Alvin Emch

Dated: _____, 2014

HONORABLE RONALD G. PEARSON
UNITED STATES BANKRUPTCY JUDGE

Exhibit A

Tank Location Plan

